

Altman in *Briscoe v. NTVB Media, Inc.*, which has not been adopted by U.S. District Court Judge F. Kay Behm, and which is currently open to objection by defendant in that case.

3. On March 6, 2023, Chief Judge Hala Jarbou of the United States District Court for the Western District of Michigan issued an Opinion, Order and Judgment in *Bozung v. Christianbook, LLC*, Case No. 1:22-cv-304 (Attached as **Exhibit A**). In *Bozung*, Judge Jarbou addressed nearly identical issues as those raised in this matter concerning Michigan's Preservation of Personal Privacy Act, disagreed with the Report and Recommendation that is the subject of Plaintiffs' pending Motion for Leave, followed Judge Stephen Murphy's decision in *Nashel v. New York Times*, No. 2:22-cv-10655, 2022 WL 6775657 (E.D. Mich. Oct. 11, 2022), and granted the defendant's motion to dismiss the plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

4. The March 6 *Bozung* decision by the Chief Judge of the Western District is thus a significant ruling. In order to fully address the very recent *Bozung* decision, a modest enlargement of Defendant's Reply Brief of two pages is warranted.

5. Defendant will make a good faith effort to condense its Reply Brief as much as is practicable.

6. On March 7, 2023, Defendant explained the nature and basis of this Motion to Plaintiffs and sought concurrence, but such concurrence was denied, and Plaintiff's counsel requested that Defendant state the reason for his denial as "there is no reason why [Defendant] can't discuss this single decision in the allotted space."

7. This Court previously denied Defendant's request for an enlargement of pages for its Reply Brief at the December 14, 2022 scheduling conference, but that was prior to the issuance of the *Bozung* decision.

WHEREFORE, Defendant respectfully requests that this Court grant its *ex parte* Motion and enter an order enlarging the page limit for its Reply Brief by two pages (for a total Reply Brief length of nine pages).

Respectfully Submitted,

Dated: March 7, 2023

s/Carol G. Schley

Peter B. Kupelian (P31812)

Carol G. Schley (P51301)

Clark Hill PLC

151 S. Old Woodward Ave., Ste. 200

Birmingham, MI 48226

(248) 642-9692

pkupelian@clarkhill.com

cschley@clarkhill.com

DENTONS US LLP

Kristen C. Rodriguez

Deborah H. Renner

233 S. Wacker Drive, Suite 5900

Chicago, IL 60606-6404

Tel: (312) 876-8000

kristen.rodriguez@dentons.com

deborah.renner@dentons.com

DENTONS DAVIS BROWN, P.C.

Katelynn T. McCollough

Davis Brown Tower

215 10th Street, Suite 1300

Des Moines, IA 50309-3993

Tel: (515) 246-7831

katelynn.mccollough@dentons.com

Counsel for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ALEXUS MURPHY, MARKITTA
WITCHER, and DIANE HANES,
individually and on behalf of others
similarly situated,

Plaintiffs,

VS.

ACTIVE INTEREST MEDIA, INC.,

Defendant.

[illegible]

Case No. 4:22-cv-12159

Hon. David M. Lawson

**DEFENDANT’S BRIEF IN SUPPORT OF *EX PARTE* MOTION TO
ENLARGE REPLY BRIEF PAGE LIMIT**

ISSUE PRESENTED

Whether the Court should enlarge the page limit for Defendant's Reply Brief in support of its Motion to Dismiss Plaintiff's First Amended Complaint by two pages (for a total of nine pages).

Defendant Responds: Yes

CONTROLLING OR MOST APPROPRIATE AUTHORITY

LR 7.1(d)(3)

Kimble v. Hosco, 439 F.3d 331, 336 (6th Cir. 2006)

LAW AND ARGUMENT

For the reasons addressed in its Motion, Defendant requests an additional two pages for its Reply Brief in Support of its Motion to Dismiss Plaintiffs' First Amended Complaint. This modest enlargement is justified so that Defendant may address the arguments raised in Plaintiffs' Response Brief, the arguments raised in Plaintiffs' Motion for Leave, and the March 6, 2023 Opinion, Order and Judgment in *Bozung v. Christianbook, LLC*, Case No. 1:22-cv-304 (Attached as **Exhibit A**).

The decision to extend page limitations is within the Court's discretion. *Kimble v. Hoso*, 439 F.3d 331, 336 (6th Cir. 2006). Defendant will also make a good faith effort to condense its Reply Brief to make it as succinct as practicable.

For these reasons and those set forth in the accompanying Motion, Defendant respectfully requests that the Court grant Defendant's *Ex Parte* Motion to Enlarge Reply Brief Page Limit by two pages, for a total of nine pages.

Dated: March 7, 2023

Respectfully submitted:

s/Carol G. Schley

Peter B. Kupelian (P31812)
Carol G. Schley (P51301)
Clark Hill PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48226
(248) 642-9692
pkupelian@clarkhill.com
cschley@clarkhill.com

DENTONS US LLP
Kristen C. Rodriguez
Deborah H. Renner
233 S. Wacker Drive, Suite 5900
Chicago, IL 60606-6404
Tel: (312) 876-8000
kristen.rodriguez@dentons.com
deborah.renner@dentons.com

DENTONS DAVIS BROWN, P.C.
Katelynn T. McCollough
Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Tel: (515) 246-7831
katelynn.mccollough@dentons.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that on March 7, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

/s/Carol G. Schley
CLARK HILL PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48009
(248) 530-6336
cschley@clarkhill.com
P51301